

UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF NEW YORK

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ELAINE L. CHAO, Secretary of Labor,  
United States Department of Labor

v.

Party Rental Enterprises, Inc.,  
a Corporation,  
dba Able Linen Service and  
Daryle Loguidice, Individually and as  
Chief Executive Officer,

Defendants.  
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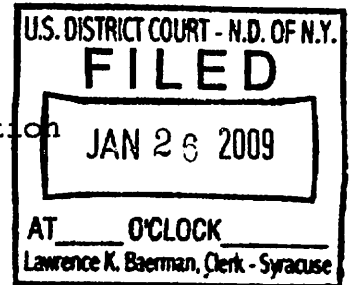
Civil Action

File No.

07-449

(NAM, GHL)

CONSENT JUDGMENT



Plaintiff, (the Secretary), has filed her complaint and defendants appeared by Counsel and waive any other defense which they may have and hereby agree to the entry of this Judgment without contest in full settlement of any claims which have been or could have been made or asserted in this action. It is, therefore, upon motion of the attorneys for the Secretary and for good cause shown:

I. ORDERED, that defendants, their officers, agents, servants, employees and those persons in active concert or participation with them be and they hereby are permanently enjoined and restrained from violating the provisions of section 11(c)(1) of the Occupational Safety and Health Act of 1970, (84 Stat. 1590; 29 U.S.C. 651 et seq.), hereinafter called the Act, in any of the following manners:

The defendants shall not, contrary to Section 11(c)(1) of the Act, discharge or in any manner discriminate against any

employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to the Act or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by the Act; and it is further

II. ORDERED, that defendants shall on or before August 15, 2010, pay Lisa Gilfus the sum of \$37,000.00, which is comprised of back wages of \$20,000.00 (from which regular legal payroll deductions are taken and regular payroll taxes are paid) and punitive damages of \$17,000.00 for the period from February 22, 2005 to December 22, 2008, and it is further

III. ORDERED, that the Defendants shall prepare checks according to the schedule attached as Exhibit A. The checks are to be made payable to "Lisa Gilfus". Defendants shall forward the checks to the Occupational Safety and Health Administration Office, U.S. Department of Labor, 201 Varick St., Room 670, NY, NY 10014, Attention Michael Mabee; and it is further

IV. ORDERED that defendants shall expunge all references to suspension or discharge from Lisa Gilfus' personnel file, and in the event she seeks employment elsewhere, defendants shall provide prospective employers only the dates of her employment, wage compensation and benefits, and job titles of positions she held, and it is further

V. ORDERED that the defendants shall permanently post the provisions set forth on the attached NOTICE (Exhibit B) at their Auburn, Cicero and Liverpool locations; and it is further

VI. ORDERED that Defendants shall distribute the attached OSHA Fact Sheet (Exhibit C) to all of their current employees. Defendants shall also distribute the attached OSHA Fact Sheet (Exhibit C) to all of their new employees for the period from January 1, 2009 through August 31, 2009; and it is further

VII. ORDERED that each party shall bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

DATED:

*January 26, 2009*  
Syracuse, New York

*Norman A. Morque*

Norman A. Morque  
Chief United States District Court Judge

Entry of this Judgment is  
hereby consented to.

Party Rental Enterprises, Inc.  
CORP.  
SISAL

BY:

*Daryle Loguidice*  
Daryle Loguidice  
Individually and as President

*Christopher Todd*  
Christopher Todd, Esq.  
Costello, Cooney, & Fearon, PLLC  
Salina Place  
305 South Salina St.  
Syracuse, New York 13202

Attorneys for the Defendants

Payment	Due on or before	Amount
1	January 15, 2009	\$15,000
2	February 15, 2009	500
3	March 15, 2009	500
4	April 15, 2009	500
5	May 15, 2009	1000
6	June 15, 2009	2000
7	July 15, 2009	2000
8	August 15, 2009	2000
9	September 15, 2009	1000
10	October 15, 2009	1500
11	November 15, 2009	1000
12	December 15, 2009	1000
13	January 15, 2010	500
14	February 15, 2010	500
15	March 15, 2010	500
16	April 15, 2010	500
17	May 15, 2010	1000
18	June 15, 2010	2000
19	July 15, 2010	2000
20	August 15, 2010	2000
	Total	\$37,000.00

**EXHIBIT A**

## **NOTICE TO EMPLOYEES**

### **You Have a Right to a Safe and Healthful Workplace.**

#### **IT'S THE LAW!**

- You have the right to notify your employer or OSHA about workplace hazards. You may ask OSHA to keep your name confidential.
- You have the right to request an OSHA inspection if you believe that there are unsafe and unhealthful conditions in your workplace. You or your representative may participate in the inspection.
- You can file a complaint with OSHA within 30 days of discrimination by your employer for making safety and health complaints or for exercising your rights under the OSH Act.
- You have a right to see OSHA citations issued to your employer. Your employer must post the citations at or near the place of the alleged violation.
- Your employer must correct workplace hazards by the date indicated on the citation and must certify that these hazards have been reduced or eliminated.
- You have the right to copies of your medical records or records of your exposure to toxic and harmful substances or conditions.
- Your employer must post this notice in your workplace.

The Occupational Safety and Health Act of 1970 (OSH Act), P.L. 91-596, assures safe and healthful working conditions for working men and women throughout the Nation. The Occupational Safety and Health Administration, in the U.S. Department of Labor, has the primary responsibility for administering the OSH Act. The rights listed here may vary depending on the particular circumstances. To file a complaint, report an emergency, or seek OSHA advice, assistance, or products, call 1-800-321-OSHA or your nearest OSHA office: • Atlanta (404) 562-2300 • Boston (617) 565-9860 • Chicago (312) 353-2220 • Dallas (214) 767-4731 • Denver (303) 844-1600 • Kansas City (816) 426-5861 • New York (212) 337-2378 • Philadelphia (215) 861-4900 • San Francisco (415) 975-4310 • Seattle (206) 553-5930. Teletypewriter (TTY) number is 1-877-889-5627. To file a complaint online or obtain more information on OSHA federal and state programs, visit OSHA's website at [www.osha.gov](http://www.osha.gov). If your workplace is in a state operating under an OSHA-approved plan, your employer must post the required state equivalent of this poster.

**1-800-321-OSHA**

**[www.osha.gov](http://www.osha.gov)**

**• Occupational Safety and Health Administration • OSHA 3165 U.S.  
Department of Labor**

**Exhibit B**

# OSHA FactSheet

## Your Rights as a Whistleblower

You may file a complaint with OSHA if your employer retaliates against you by taking unfavorable personnel action because you engaged in protected activity relating to workplace safety and health, commercial motor carrier safety, pipeline safety, air carrier safety, nuclear safety, the environment, asbestos in schools, corporate fraud, SEC rules or regulations, railroad carrier safety or security, or public transportation agency safety or security.

### Whistleblower Laws Enforced by OSHA

Each law requires that complaints be filed within a certain number of days after the alleged retaliation.

You may file complaints by telephone or in writing under the:

- *Occupational Safety and Health Act* (30 days)
- *Surface Transportation Assistance Act* (180 days)
- *Asbestos Hazard Emergency Response Act* (90 days)
- *International Safe Container Act* (60 days)
- *Federal Rail Safety Act* (180 days)
- *National Transit Systems Security Act* (180 days)

Under the following laws, complaints must be filed in writing:

- *Clean Air Act* (30 days)
- *Comprehensive Environmental Response, Compensation and Liability Act* (30 days)
- *Energy Reorganization Act* (180 days)
- *Federal Water Pollution Control Act* (30 days)
- *Pipeline Safety Improvement Act* (180 days)
- *Safe Drinking Water Act* (30 days)
- *Sarbanes-Oxley Act* (90 days)
- *Solid Waste Disposal Act* (30 days)
- *Toxic Substances Control Act* (30 days)
- *Wendell H. Ford Aviation Investment and Reform Act for the 21st Century* (90 days)

### Unfavorable Personnel Actions

Your employer may be found to have retaliated against you if your protected activity was a contributing or motivating factor in its decision to take unfavorable personnel action against you.

Such actions may include:

- Firing or laying off
- Blacklisting
- Demoting
- Denying overtime or promotion
- Disciplining

- Denying benefits
- Failing to hire or rehire
- Intimidation
- Reassignment affecting promotion prospects
- Reducing pay or hours

### Filing a Complaint

If you believe that your employer retaliated against you because you exercised your legal rights as an employee, contact your local OSHA office *as soon as possible*, because you must file your complaint within the legal time limits. OSHA conducts an in-depth interview with each complainant to determine whether to conduct an investigation. For more information, call your closest OSHA Regional Office:

- |                 |                |
|-----------------|----------------|
| • Boston        | (617) 565-9860 |
| • New York      | (212) 337-2378 |
| • Philadelphia  | (215) 861-4900 |
| • Atlanta       | (404) 562-2300 |
| • Chicago       | (312) 353-2220 |
| • Dallas        | (972) 850-4145 |
| • Kansas City   | (816) 283-8745 |
| • Denver        | (720) 264-6550 |
| • San Francisco | (415) 625-2547 |
| • Seattle       | (206) 553-5930 |

Addresses, fax numbers and other contact information for these offices can be found on OSHA's website, [www.osha.gov](http://www.osha.gov), and in local directories. Some complaints must be filed in writing and some may be filed verbally (call your local OSHA office for assistance). Written complaints may be filed by mail (we recommend certified mail), fax, or hand-delivered during business hours. The date postmarked, faxed or hand-delivered is considered the date filed.

If retaliation for protected activity relating to occupational safety and health issues takes place in a state that operates an OSHA-approved state plan, the complaint should be filed with the state agency, although persons in those states may file with Federal OSHA at the same time. Although the *Occupational Safety and*

*Health Act* covers only private sector employees, state plans also cover state and local government employees. For details, see <http://www.osha.gov/fso/osp/index.html>.

### **How OSHA Determines Whether Retaliation Took Place**

The investigation must reveal that:

- The employee engaged in protected activity;
- The employer knew about the protected activity;
- The employer took an adverse action; and
- The protected activity was the motivating factor (or under some laws, a contributing factor) in the decision to take the adverse action against the employee.

If the evidence supports the employee's allegation and a settlement cannot be reached, OSHA will issue an order requiring the employer to reinstate the employee, pay back wages, restore benefits, and other possible remedies to make the employee whole.

### **Limited Protections for Employees Who Refuse to Work**

You have a limited right under the OSH Act to refuse to do a job because conditions are hazardous. You may do so under the OSH Act only when (1) you believe that you face *death or serious injury* (and the situation is so clearly hazardous that any reasonable person would believe the same thing); (2) you have tried to get your employer to correct the condition, and there is no other way to do the job safely; and (3) the situation is so urgent that you do not have time to eliminate the hazard through regulatory channels such as calling OSHA.

Regardless of the unsafe condition, you are not protected if you simply walk off the job. For details, see <http://www.osha.gov/as/opa/worker/refuse.html>. OSHA cannot enforce union contracts or state laws that give employees the right to refuse to work.

### **Whistleblower Protections in the Transportation Industry**

Employees whose jobs directly affect commercial motor vehicle safety are protected from retaliation by their employers for refusing to violate or for reporting

violations of Department of Transportation (DOT) motor carrier safety standards or regulations, or refusing to operate a vehicle because of such violations or because they have a reasonable apprehension of death or serious injury.

Similarly, employees of air carriers, their contractors or subcontractors who raise safety concerns or report violations of FAA rules and regulations are protected from retaliation, as are employees of owners and operators of pipelines, their contractors and subcontractors who report violations of pipeline safety rules and regulations. Employees involved in international shipping who report unsafe shipping containers are also protected. In addition, employees of railroad carriers or public transportation agencies, their contractors or subcontractors who report safety or security conditions or violations of federal rules and regulations relating to railroad or public transportation safety or security are protected from retaliation.

### **Whistleblower Protections for Voicing Environmental Concerns**

A number of laws protect employees who report violations of environmental laws related to drinking water and water pollution, toxic substances, solid waste disposal, air quality and air pollution, asbestos in schools, and hazardous waste disposal sites. *The Energy Reorganization Act* protects employees who raise safety concerns in the nuclear power industry and in nuclear medicine.

### **Whistleblower Protections When Reporting Corporate Fraud**

Employees who work for publicly traded companies or companies required to file certain reports with the Securities and Exchange Commission are protected from retaliation for reporting alleged mail, wire, or bank fraud; violations of rules or regulations of the SEC, or federal laws relating to fraud against shareholders.

### **More Information**

To obtain more information on whistleblower laws, go to [www.osha.gov](http://www.osha.gov), and click on the link for "Whistleblower Protection."

This is one in a series of informational fact sheets highlighting OSHA programs, policies or standards. It does not impose any new compliance requirements. For a comprehensive list of compliance requirements of OSHA standards or regulations, refer to Title 29 of the Code of Federal Regulations. This information will be made available to sensory impaired individuals upon request. The voice phone is (202) 693-1999; teletypewriter (TTY) number: (877) 889-5627.

For more complete information:



U.S. Department of Labor

[www.osha.gov](http://www.osha.gov)

(800) 321-OSHA